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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,848	04/03/2000	Jiandong Chen	98,057-G	4238

7590 10/22/2002

Keown & Associates  
500 West Cummings Park, Ste. 1200  
Woburn, MA 01801

EXAMINER
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SCHULTZ, JAMES

ART UNIT	PAPER NUMBER
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1635

DATE MAILED: 10/22/2002

18

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/541,848

Applicant(s)

CHEN ET AL.

Examiner

J. Douglas Schultz

Art Unit

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 09 October 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-29 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-29 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1) Notice of References Cited (PTO-892)

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

6) Other: \_\_\_\_\_

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## **DETAILED ACTION**

### *Continued Prosecution Application*

The request filed on October 9, 2002 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/541,848 is acceptable and a CPA has been established. An action on the CPA follows.

### *Response to Arguments*

Claims 1-29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16-43 of copending U.S. Application No. 09383,507 for the reasons of record set forth in the Office action mailed 13 August 2001.

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by WO 93/20238 for the reasons of record set forth in the Office action mailed 13 August 2001.

Claims 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kondo et al. for the reasons of record set forth in the Office action mailed 13 August 2001.

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being anticipated by Kondo et al., in view of Clark et al., for the reasons of record set forth in the Office action mailed 13 August 2001.

Claims 1-29 are rejected under 35 U.S.C. 112, first paragraph, because the specification, is only enabled for a method of inhibiting tumor cells in vitro using MDM2 antisense oligos and for a method of inhibiting tumor cells in vitro or in vivo using SEQ ID NO 28 or 47. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims, for the reasons of record set forth in the Office action mailed 13 August 2001.

Applicants have provided no arguments or amendments with the response filed October 9, 2002.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Douglas Schultz whose telephone number is 703-308-9355. The examiner can normally be reached on 8:00-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John L. LeGuyader can be reached on 703-308-0447. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

J. Douglas Schultz  
October 18, 2002



ANDREW WANG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600